

2021-2349

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

INFERAL TECHNOLOGY, LLC, TERMINAL REALITY, INC.,

Plaintiffs-Appellants

v.

ACTIVISION BLIZZARD INC.,

Defendant-Appellee

Appeal from the United States District Court for the Northern District of Texas,
Case No. 3:18-cv-01397-M, Chief Judge Barbara M. G. Lynn

**JOINT NOTICE FOR EXTENSION OF TIME TO FILE APPENDIX TO
RESOLVE CONFIDENTIALITY ISSUES**

Eric W. Buether
(eric.buether@bjciplaw.com)
Christopher M. Joe
(chris.joe@bjciplaw.com)
Kenneth P. Kula
(ken.kula@bjciplaw.com)
BUETHER JOE & COUNSELORS, LLC
1700 Pacific Avenue, Suite 4750
Dallas, Texas 75201
Telephone: (214) 466-1271

Counsel for Plaintiffs-Appellants
Infernal Technology, LLC,
Terminal Reality, Inc.

March 21, 2022

B. Trent Webb (bwebb@shb.com)
John D. Garretson (jgarretson@shb.com)
Lauren E. Douville (ldouville@shb.com)
Lydia C. Raw (lraw@shb.com)
Shook, Hardy & Bacon L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108
Telephone: (816) 474-6550

Sharon A. Israel (sisrael@shb.com)
David Morehan (dmorehan@shb.com)
Shook, Hardy & Bacon L.L.P.
600 Travis St., Suite 3400
Houston, TX 77002
Telephone: (713) 546-5689

Counsel for Defendant-Appellee
Activision Blizzard, Inc.

FORM 9. Certificate of Interest

Form 9 (p. 1)
July 2020

UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

CERTIFICATE OF INTEREST

Case Number 21-2349

Short Case Caption Infernol Technology, LLC, et al. v. Activision Blizzard, Inc.

Filing Party/Entity Activision Blizzard, Inc.

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: March 21, 2022

Signature: /s/ John D. Garretson

Name: John D. Garretson

FORM 9. Certificate of Interest

Form 9 (p. 2)
July 2020

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input checked="" type="checkbox"/> None/Not Applicable
Activision Blizzard, Inc.	Blizzard Entertainment, Inc.	
	Activision Publishing, Inc.	
	Activision Entertainment Holdings, Inc.	

 Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
July 2020

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

<input type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached
--	--

Shook, Hardy & Bacon L.L.P.	Harry L. Gillam, Jr.
Gillam & Smith LLP	Jonathan M. Hernandez
Melissa Richards Smith	Andrew T. "Tom" Gorham
Palak J. Shah	William R. Lamb
Beth A. Larigan	

5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

<input type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached
--	--

Infernol Technology, LLC, et al. v. Epic Games, Inc., C.A. No. 5:19-cv-00516-BR (E.D. NC)	
---	--

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

<input checked="" type="checkbox"/> None/Not Applicable	<input type="checkbox"/> Additional pages attached
---	--

CERTIFICATE OF INTEREST

Counsel for Plaintiffs – Appellants certify under Federal Circuit Rule 47.4 that the following information is accurate and complete to the best of their knowledge:

1. Represented Entities. Fed. Cir. R. 47.4(a)(1). Provide the full names of all entities represented by undersigned counsel in this case.

Infernol Technology, LLC
Terminal Reality, Inc.

2. Real Party in Interest. Fed. Cir. R. 47.4 (a)(2). Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities.

None/Not Applicable

3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3). Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities.

None/Not Applicable

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Fed. Cir. R. 47.4 (a)(4).

Michael C. Pomeroy
Michael D. Ricketts
Blake W. Buether
Niky Bagley
Michael W. Doell
Matthew P. Harper
Nicholas C. Kliewer
Theresa M. Dawson
Thomas J. Gohn
Bragalone Olejko Saad PC
Jeffery R. Bragalone
Terry A. Saad
Daniel F. Olejko

5. Related Cases. Provide the same titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

Pursuant to Federal Circuit Rule 47.4(a)(5), Plaintiffs – Appellants list the following pending cases:

- Infernal Technology, LLC, et al. v. Sony Interactive Entertainment America, LLC, No. 2:19-cv-00248-JRG (E.D. Tex.)
- Infernal Technology, LLC, et al. v. Epic Games, Inc., No. 5:19-CV-00516-BR (E.D.N.C.)
- Infernal Technology, LLC, et al. v. Take-Two Interactive Software, Inc., No. 1:19-cv-09350-JGK-KNF (S.D.N.Y.)
- Infernal Technology, LLC, et al. v. Ubisoft, Inc., No. 5:20-CV-00223-D (E.D.N.C.)

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. R. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

None/Not Applicable

March 21, 2022

/s/ Eric W. Buether
Eric W. Buether

Appellants Infernal Technology, LLC and Terminal Reality, Inc. and Appellee Activision Blizzard Inc. respectfully provide notice under Fed. R. App. P. 26(b) and Federal Circuit Rule 26(b)(4), based on the facts testified to in the attached Declaration of Sharon A. Israel, of an extension of time of five (5) days for Appellants to file the Appendix up to and including March 28, 2022. The Appendix is currently due on March 21, 2022. Appellants previously obtained an extension of seven (7) days to file the Appendix.

Additional time is needed to resolve confidentiality issues. Many of the materials cited in the Appendix were designated as “Confidential,” “Restricted – Attorneys’ Eyes Only,” or “Restricted Confidential Source Code” pursuant to a Protective Order entered in the district court. This designated information includes both party and third-party materials and spans five volumes of appendices. While Appellants obtained an initial extension of time for filing the Appendix, the parties need additional time to resolve remaining confidentiality issues and ensure compliance with the district court Protective Order.

For the foregoing reasons, Appellants will file the Joint Appendix by March 28, 2022.

Dated: March 21, 2022

/s/ Eric W. Buether

Eric W. Buether
(eric.buether@bjciplaw.com)
Christopher M. Joe
(chris.joe@bjciplaw.com)
Kenneth P. Kula
(ken.kula@bjciplaw.com)
Buether Joe & Counselors, LLC
1700 Pacific Avenue, Suite 4750
Dallas, Texas 75201
Telephone: (214) 466-1271

***Counsel for Plaintiffs-
Appellants Infernal Technology,
LLC, Terminal Reality, Inc.***

Respectfully submitted,

/s/ Sharon A. Israel

Sharon A. Israel (sisrael@shb.com)
David Morehan (dmorehan@shb.com)
Shook, Hardy & Bacon L.L.P.
600 Travis St., Suite 3400
Houston, TX 77002
Telephone: (713) 546-5689

B. Trent Webb (bwebb@shb.com)
John D. Garretson (jgarretson@shb.com)
Lauren Douville (ldouville@shb.com)
Lydia C. Raw (lraw@shb.com)
Shook, Hardy & Bacon L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108
Telephone: (816) 474-6550

***Counsel for Defendant-Appellee
Activision Blizzard Inc.***

2021-2349

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

INFERAL TECHNOLOGY, LLC, TERMINAL REALITY, INC.,

Appellants

v.

ACTIVISION BLIZZARD INC.,

Appellee

Appeal from the United States District Court for the Northern District of Texas,
Case No. 3:18-cv-01397-M

**DECLARATION OF SHARON A. ISRAEL IN SUPPORT OF THE JOINT
NOTICE FOR EXTENSION OF TIME TO FILE APPENDIX TO RESOLVE
CONFIDENTIALITY ISSUES**

Pursuant to Fed. Cir. R. 26(b)(4) and 28 U.S.C. § 1746, I, Sharon A. Israel, make the following declaration:

1. I am a partner with Shook, Hardy & Bacon L.L.P., duly licensed and admitted to practice before this Court, and counsel for Appellee Activision Blizzard Inc. I have personal knowledge of the facts stated herein, and if called and sworn as a witness, could testify competently thereto. I make this declaration in support of the

Joint Notice for Extension of Time to File Appendix to Resolve Confidentiality Issues.

2. The Parties seeks a 5-day extension of the due date to file the Joint Appendix from March 21, 2022, to March 28, 2022, to allow for adequate time to resolve confidentiality issues.

3. Good cause exists for this limited extension because the additional time is needed to resolve confidentiality issues and ensure compliance with the Protective Order entered in the trial court.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 21, 2022

Respectfully submitted,

By: /s/ Sharon A. Israel
Sharon A. Israel
Shook, Hardy & Bacon L.L.P.
600 Travis St., Suite 3400
Houston, TX 77002
Telephone: (713) 546-5689

*Counsel for Defendant-Appellee
Activision Blizzard Inc.*